

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 242:

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide for the regulation of massage therapy educational programs; to
3 provide for legislative intent; to provide for definitions; to clarify requirements for massage
4 therapy licenses; to provide for violations; to provide for conditions relating to regulation by
5 counties, municipalities, or other local jurisdictions relating to massage therapy; to provide
6 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
7 purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
11 is amended by revising Chapter 24A, relating to massage therapy practice, as follows:

12 **"CHAPTER 24A**
13 **ARTICLE 1**

14 43-24A-1.

15 This chapter shall be known and may be cited as the 'Georgia Massage Therapy Practice
16 Act.'

17 43-24A-2.

18 The General Assembly acknowledges that the practice of massage therapy ~~affects is a~~
19 therapeutic health care service delivered by health care professionals that affects the public
20 health, safety, and welfare of Georgians. Massage therapists must have a knowledge of
21 anatomy and physiology and an understanding of the relationship between the structure and
22 function of the tissue being treated and the total function of the body. Massage is
23 therapeutic, and regulations are necessary to protect the public from unqualified

24 practitioners. It is in the interest of the public to set standards of qualifications, education,
25 training, and experience for those who seek to practice massage therapy; to promote high
26 standards of professional performance for those licensed to practice massage therapy; and
27 to protect the public from unprofessional conduct by persons and entities licensed to
28 practice or teach massage therapy.

29 43-24A-3.

30 As used in this chapter, the term:

31 (1) 'Advertise' means, but is not limited to, the issuing of or causing to be distributed any
32 card, sign, or other device or causing or permitting any sign or marking on or in any
33 building or structure, or in any newspaper, magazine, or directory, or announcement on
34 radio, or announcement or display on television, computer network, or electronic or
35 telephonic medium.

36 (2) 'Applicant' means any person seeking a license or renewal under this chapter.

37 (3) 'Board' means the Georgia Board of Massage Therapy established by this chapter.

38 (4) 'Board recognized massage therapy educational program' means an educational
39 program located within or outside the State of Georgia that receives compensation for
40 training two or more persons in massage therapy or its modalities, that has submitted an
41 application and fee, and which meets the standards for training and curriculum as set out
42 by the board in its rules, including, but not limited to, standards for training and
43 curriculum which are consistent with:

44 (A) The the Nonpublic Postsecondary Education Commission as provided in Code
45 Section 20-3-250.4;

46 (B) A postsecondary institution of the Technical College System of Georgia that is
47 accredited by the Commission on Colleges of the Southern Association of Colleges and
48 Schools; or

49 (C) A postsecondary institution that is accredited by an accrediting agency recognized
50 by the United States Department of Education and that is authorized or approved by a
51 professional licensing board, department, or agency in another state, jurisdiction, or
52 territory whose standards have been determined by the board to be equivalent to the
53 Nonpublic Postsecondary Education Commission.

54 (4.1)(5) 'Entity' means the owner or operator of a business where massage therapy for
55 compensation is performed.

56 (5)(6) 'License' means a valid and current certificate of registration issued by the board
57 pursuant to this chapter to practice massage therapy.

58 (6)(7) 'Licensee' means any person holding a license.

59 (7)(8) 'Massage therapist' means a person licensed under this chapter as a massage
60 therapist who administers or teaches massage or massage therapy for compensation.

61 (8)(9) 'Massage therapy' or 'massage' means the application of a system of structured
62 touch, pressure, movement, and holding to the soft tissue of the body in which the
63 primary intent is to enhance or restore health and well-being. ~~The Such~~ term includes
64 complementary methods, including without limitation cupping therapy, taping
65 techniques, the external application of water, superficial heat, superficial cold, lubricants,
66 salt scrubs, or other topical preparations and the use of commercially available
67 electromechanical devices which do not require the use of transcutaneous electrodes and
68 which mimic or enhance the actions possible by the hands; the term also includes
69 determining whether massage therapy is appropriate or contraindicated, or whether
70 referral to another health care provider is appropriate. ~~Massage therapy Such term~~ shall
71 not include the use of ultrasound, fluidotherapy, laser, and other methods of deep thermal
72 modalities.

73 (10) 'Massage therapy business' means an entity where the practice of or engagement in
74 massage therapy is performed by a licensed massage therapist.

75 (9)(11) 'Person' means a natural person only.

76 (10)(12) 'Provisionally permitted massage therapist' means a person issued a provisional
77 permit under this chapter.

78 43-24A-4.

79 (a) There is created the Georgia Board of Massage Therapy which shall consist of five
80 members. The board shall be assigned to the ~~Secretary of State's office~~ Office of the
81 Secretary of State for administrative purposes and shall be under the jurisdiction of the
82 division director and shall operate in accordance with and pursuant to the provisions of
83 Chapter 1 of this title, as applicable.

84 (b) The Governor shall appoint, subject to confirmation by the Senate, all members of the
85 board for initial terms of office beginning July 1, 2005. The Governor shall appoint two
86 initial members of the board to serve for terms of two years and three initial members of
87 the board, including the public member, to serve for terms of four years. After the initial
88 terms specified in this subsection, members of the board shall take office on the first day
89 of July immediately following the expired term of that office and shall serve for a term of
90 four years and until their successors are appointed and qualified. Any person appointed to
91 the board when the Senate is not in session may serve on the board without Senate
92 confirmation until the Senate acts on that appointment. No member shall serve on the
93 board for more than two full consecutive terms. Any vacancy due to death, resignation,

94 removal, or otherwise shall be filled for the remainder of the unexpired term in the same
95 manner as regular appointments.

96 (c) All members of the board shall be reimbursed as provided for in subsection (f) of Code
97 Section 43-1-2.

98 (d) An appointee to the board shall qualify by taking an oath of office within 15 days from
99 the date of his or her appointment. On presentation of the oath, the Secretary of State shall
100 issue a commission to each appointee as evidence of his or her authority to act as a member
101 of the board.

102 43-24A-5.

103 (a)(1) There shall be four professional members of the board who shall:

104 (A) Be citizens of the United States and residents of this state for at least three years
105 prior to the date of appointment;

106 (B) Have been engaged in massage therapy practice for compensation for at least five
107 years immediately preceding their appointment; and

108 (C) ~~Be eligible for licensure under this chapter. Effective July 1, 2006, and thereafter,~~
109 ~~all professional members of the board shall be licensed under this chapter.~~

110 (2) No more than one professional member of the board may be an owner of or affiliated
111 with any massage therapy school.

112 (b) There shall be one consumer member of the board who shall be appointed by the
113 Governor from the public at large, shall be a citizen of the United States and resident of this
114 state, and shall be a person to whom neither this state nor any other state or jurisdiction or
115 organization has ever issued a certificate, registration, license, or permit to engage in the
116 practice of massage therapy nor be an owner of or affiliated with any massage therapy
117 school or massage therapy business.

118 (c) The Governor, after notice and opportunity for hearing, may remove any member of
119 the board for incompetence, neglect of duty, unprofessional conduct, conviction of a
120 felony, failure to meet the qualifications of this chapter, or committing any act prohibited
121 by this chapter.

122 43-24A-6.

123 The board shall meet at least once each year at a time fixed by the board. At its annual
124 meeting, the board shall elect from its members a chairperson, vice chairperson, and any
125 other officers as deemed necessary who shall hold office for a term of one year.
126 Additionally, the board may appoint such committees as it considers necessary to fulfill its
127 duties. In addition to its annual meeting, the board may hold additional meetings at the call

128 of the chairperson or at the request of any two members of the board or as approved by the
129 division director.

130 43-24A-7.

131 (a)(1) On and after July 1, 2019, the Georgia Board of Massage Therapy shall regulate
132 the practice of massage therapy in this state. The board shall promulgate rules and
133 regulations governing the practice of massage therapy and massage therapy educational
134 programs pursuant to this chapter. Such rules and regulations shall be adopted no later
135 than July 1, 2020.

136 (2) Any person who holds a license as a massage therapist issued under this chapter as
137 its provisions existed on June 30, 2019, shall not be required to undergo recertification
138 under this chapter but shall otherwise be subject to all applicable provisions of this
139 chapter effective on and after July 1, 2019.

140 (b) The board shall have the power to:

141 (1) Examine and determine the qualifications and fitness of applicants for licenses to
142 practice massage therapy in this state;

143 (2) Issue, renew, refuse to renew, deny, suspend, or revoke licenses to practice massage
144 therapy in this state or otherwise discipline licensed massage therapists;

145 (3) Conduct investigations for the purpose of discovering violations of this chapter or
146 grounds for disciplining persons or entities acting in violation of this chapter;

147 (4) Upon reasonable notice, request on-site inspections of the facility, equipment,
148 policies, and practices of a massage therapy business or board recognized massage
149 therapy educational program by appropriate inspectors in the Office of the Secretary of
150 State for the purpose of determining compliance with the standards established pursuant
151 to this chapter;

152 (4)(5) Hold hearings on all matters properly brought before the board and, in conjunction
153 therewith, to administer oaths, receive evidence, make the necessary determinations, and
154 enter orders consistent with the findings. The board may designate one or more of its
155 members as its hearing officer;

156 (5)(6) Adopt, revise, and enforce rules concerning advertising by licensees including, but
157 not limited to, rules to prohibit false, misleading, or deceptive practices;

158 (7) Periodically evaluate board recognized massage therapy educational programs and
159 license such programs that meet the board's requirements;

160 (8) Develop and enforce standards for continuing education courses required of licensed
161 massage therapists which may include courses in massage therapy or any of the
162 modalities described in paragraphs (5) through (8) of subsection (a) of Code Section
163 43-24A-19;

164 (9) Develop and enforce reasonable and uniform standards for massage therapy
165 educational programs and massage therapy practice;
166 (10) Deny or withdraw recognition of noncompliant massage therapy educational
167 programs that do not meet standards established pursuant to this chapter;
168 (11) Appoint standing or ad hoc committees as necessary to inform and make
169 recommendations to the board about issues and concerns of the massage therapy
170 profession and to facilitate communication amongst the board, licensees under this
171 chapter, and the community, which may include nonmembers of the board;
172 (12) Collect and publish data regarding existing massage therapy resources in Georgia
173 without violation of any state or federal privacy laws and coordinate planning for board
174 recognized massage therapy educational programs and practice;
175 (6)(13) Adopt an official seal; and
176 (7)(14) Bring proceedings to the courts for the enforcement of this chapter or any rules
177 and regulations promulgated pursuant to this chapter.
178 (b)(c) In addition to the enumerated powers in subsection (a)(b) of this Code section, the
179 board has the authority to conduct its business pursuant to the provisions of Code
180 Section 43-1-19 which is incorporated herein and made a part of this chapter by specific
181 reference.

182 43-24A-8.
183 (a) No person may practice massage therapy in this state who is not a licensed massage
184 therapist or the holder of a valid provisional permit issued by the division director pursuant
185 to this chapter.
186 (b) Any applicant for a license as a massage therapist must submit a completed application
187 upon a form and in such manner as the board prescribes, accompanied by applicable fees,
188 and evidence satisfactory to the board that:
189 (1) The applicant is at least 18 years of age;
190 (2) The applicant has a high school diploma or its recognized equivalent;
191 (3) The applicant is a citizen of the United States or a permanent resident of the United
192 States;
193 (4) The applicant is of good moral character. For purposes of this paragraph, 'good
194 moral character' means professional integrity and a lack of any conviction for acts
195 involving moral turpitude where the underlying conduct relates to the applicant's fitness
196 to practice massage therapy;
197 (5) The applicant has satisfactory results from a fingerprint record check report
198 conducted by the Georgia Crime Information Center and the Federal Bureau of
199 Investigation, as determined by the board. Application for a license under this Code

200 section shall constitute express consent and authorization for the board or its
201 representative to perform a criminal background check. Each applicant who submits an
202 application to the board for licensure by examination agrees to provide the board with any
203 and all information necessary to run a criminal background check, including, but not
204 limited to, classifiable sets of fingerprints. The Such applicant shall be responsible for
205 all fees associated with the performance of such background check;

206 (6) The applicant has completed successfully a board recognized massage therapy
207 educational program consisting of a minimum of 500 hours of course and clinical work;
208 and

209 (7) The applicant has passed satisfactorily the National Certification Examination for
210 Therapeutic Massage and Bodywork, the Massage and Bodywork Licensing Exam
211 administered by the Federation of State Massage Therapy Boards, an equivalent test
212 approved by the board, or an examination administered by another state, territory, or
213 jurisdiction whose license requirements meet or exceed those of this state; and

214 (8) The applicant has and agrees to maintain continuously during the term of licensure
215 liability insurance coverage for bodily injury, property damage, and professional liability
216 in coverages and amounts of not less than \$1 million per occurrence, with not less than
217 a minimum annual aggregate of \$3 million for all occurrences, as determined by the
218 board.

219 43-24A-9.

220 (a) A provisional permit to practice as a provisionally permitted massage therapist shall,
221 upon proper application, be issued for a six-month period to an applicant who meets the
222 following criteria:

223 (1) Holds and maintains a valid license as a massage therapist in another state;
224 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
225 defined in Code Section 50-36-2;
226 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
227 suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and
228 (4) Has not been convicted of a felony in the courts of this state, any other state, territory,
229 or country, or in the courts of the United States, including, but not limited to, a plea of
230 nolo contendere entered to such charge or the affording of first offender treatment to any
231 such charge in the same manner as provided in paragraph (4) of subsection (a) of Code
232 Section 43-1-19.

233 (b) A provisional permit shall require the applicant to work under the supervision of a
234 licensed massage therapist in good standing with the board. If an applicant has met the
235 requirements of subsection (a) of this Code section and submits the applicable license fee,

236 the applicant shall be granted a provisional permit to practice massage therapy in this state.
237 Upon receipt of such application and fee, a provisional permit shall be administratively
238 issued.

239 (c) A provisional permit may be voided if the board determines that the person holding
240 such permit no longer meets one or more of the criteria set forth in subsection (a) of this
241 Code section.

242 (d) A provisional permit issued pursuant to subsection (a) of this Code section shall have
243 the same force and effect as a permanent license until the time of its expiration.

244 (e) A provisional permit issued pursuant to subsection (a) of this Code section shall expire
245 on the same date as a license issued under this chapter to a holder of a provisional permit
246 who has passed the examination pursuant to Code Section 43-24A-8.

247 43-24A-10.

248 The board may require that all applications be made under oath.

249 43-24A-11.

250 (a) Examinations shall be administered to qualified applicants for massage therapy
251 licensure at least twice each calendar year.

252 (b) Applicants may obtain their examination scores in accordance with such rules and
253 regulations as the board may establish.

254 43-24A-12.

255 Reserved.

256 43-24A-13.

257 (a) Any applicant for a license by endorsement as a massage therapist must submit a
258 completed application upon a form and in such manner as the board prescribes,
259 accompanied by applicable fees, and evidence satisfactory to the board that:

260 (1) The applicant is at least 18 years of age;

261 (2) The applicant is of good moral character. For purposes of this paragraph, 'good
262 moral character' means professional integrity and a lack of any conviction for acts
263 involving moral turpitude where the underlying conduct relates to the applicant's fitness
264 to practice massage therapy;

265 (3) The applicant has satisfactory results from a fingerprint record check report
266 conducted by the Georgia Crime Information Center and the Federal Bureau of
267 Investigation, as determined by the board. Application for a license under this Code
268 section shall constitute express consent and authorization for the board or its

269 representative to perform a criminal background check. Each applicant who submits an
270 application to the board for licensure by endorsement agrees to provide the board with
271 any and all information necessary to run a criminal background check, including, but not
272 limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees
273 associated with the performance of such background check; and

274 (4) The applicant is currently licensed as a massage therapist in another jurisdiction,
275 state, or territory of the United States or foreign country which requires standards for
276 licensure considered by the board to be equivalent to the requirements for licensure under
277 this chapter.

278 (b) The board may establish by rule procedures for an applicant for licensure by
279 endorsement to supplement his or her application to satisfy any standards for licensure
280 pursuant to this chapter that are greater than those of another state, territory, or jurisdiction.

281 43-24A-14.

282 (a) The licensee shall display the license certificate or a photocopy thereof in an
283 appropriate and public manner at each location at which he or she practices.

284 (b) All licenses shall expire biennially unless renewed. All applications for renewal of a
285 license shall be filed with the division director prior to the expiration date, accompanied
286 by the biennial renewal fee prescribed by the board and certifying that all current
287 requirements of continuing education as determined by the board have been fulfilled. The
288 board shall provide for penalty fees for late registration. The failure to renew a license by
289 the end of an established penalty period shall have the same effect as a revocation of said
290 license, subject to reinstatement only after application and payment of the prescribed
291 reinstatement fee within the time period established by the division director, provided that
292 the applicant meets such requirements as the board may establish by rule.

293 (c) A licensee shall provide evidence of current liability insurance coverage as required
294 in Code Section 43-24A-8 upon request by the board at any time during such licensee's
295 term of licensure.

296 ~~(e)~~(d) The licensee shall inform the board of any change of address within 30 days.

297 ~~(d)~~(e) Each person licensed under this chapter is responsible for renewing his or her
298 license before the expiration date.

299 ~~(e)~~(f) Under procedures and conditions established by the board, a licensee may request
300 that his or her license be declared inactive. The licensee may apply for active status at any
301 time and upon meeting the conditions set forth by the board shall be declared active.

302 43-24A-15.

303 (a) It shall be a violation of this chapter for any person, or entity, or board recognized
304 massage therapy educational program to advertise:

305 (1) Massage ~~massage~~ therapy services or to advertise the offering of massage therapy
306 services unless such services are provided by a person who holds a valid license under
307 this chapter; or

308 (2) Massage therapy services through any form of media or representation through the
309 use of pictorial representations unless the persons depicted in such representations are
310 attired and posed in a manner so as to avoid appealing to the prurient interest.

311 (b) It shall be a violation of this chapter for any person to advertise:

312 (1) As a massage therapist unless the person holds a valid license under this chapter in
313 the classification so advertised; or

314 (2) Massage therapy services combined with escort or dating services or adult
315 entertainment.

316 (c) It shall be a violation of this chapter for a person or entity, or the employees, agents,
317 or representatives of such person or entity, to practice massage therapy or to use in
318 connection with such person's or entity's name or business activity the terms 'massage,'
319 'massage therapy,' 'massage therapist,' 'massage practitioner,' or the letters 'M.T.,' 'L.M.T.,'
320 or any other words, letters, abbreviations, or insignia indicating or implying directly or
321 indirectly that massage therapy is provided or supplied unless such massage therapy is
322 provided by a massage therapist licensed and practicing in accordance with this chapter.

323 (d) It shall be a violation of this chapter for any entity to:

324 (1) Advertise the offering of massage therapy services combined with escort or dating
325 services, or adult entertainment, or illegal acts relating to sex related crimes; or

326 (2) Employ unlicensed massage therapists to perform massage therapy.

327 (e) It shall be a violation of this chapter for any person to practice massage therapy without
328 holding a current or provisional license as a massage therapist in accordance with
329 subsection (a) of Code Section 43-24A-8.

330 (f) It shall be a violation of this chapter for any person or entity, or the employees, agents,
331 or representatives of such person or entity, to render or offer massage therapy services for
332 compensation unless such massage therapy is provided by a licensed massage therapist.

333 43-24A-16.

334 The practice of massage therapy is declared to be an activity affecting the public interest
335 and involving that affects the public health, safety, and welfare of the public Georgians.

336 Such practice by a person who is not licensed to practice massage therapy in this state is
337 declared to be a public nuisance, harmful to the public health, safety, and welfare. Any

338 citizen of this state, the board, or the appropriate prosecuting attorney of a jurisdiction
339 where such practice is carried on by such unlicensed person may, on behalf of the public,
340 bring an action to restrain and enjoin such unlicensed practice in the superior court of the
341 county where such unlicensed person resides or works. It shall not be necessary in order
342 to obtain an injunction under this Code section to allege or prove that there is no adequate
343 remedy at law or to allege or prove any special injury.

344 43-24A-17.

345 (a) The board may take any one or more of the following actions against a person, or
346 entity, or board recognized massage therapy educational program found by the board to
347 have committed a violation of this chapter:

348 (1) Reprimand or place the licensee on probation;
349 (2) Revoke or suspend the license or deny the issuance or renewal of a license;
350 (3) Impose an administrative fine not to exceed \$500.00 for each violation; and
351 (4) Assess costs against the violator for expenses relating to the investigation and
352 administrative action.

353 (b) The board may assess collection costs and interest for the collection of fines imposed
354 under this chapter against any person, or entity, or board recognized massage therapy
355 educational program that fails to pay a fine as directed by the board.

356 43-24A-18.

357 Proceedings under this chapter shall be governed by Chapter 13 of Title 50, the 'Georgia
358 Administrative Procedure Act.'

359 43-24A-19.

360 (a) Nothing in this chapter shall be construed to affect, restrict, or prevent the practice,
361 services, or activities of:

362 (1) A person licensed, registered, or certified under any other chapter or article under
363 Title 43 while engaged in the professional or trade practices properly conducted under
364 authority of such other licensing laws, provided that such person shall not use the title of
365 massage therapist;

366 (2) A person pursuing a course of study leading to a degree or certificate as a massage
367 therapist in ~~an~~ a board recognized massage therapy educational program recognized by
368 ~~the board~~, if such person is designated by title indicating student status and is fulfilling
369 uncompensated work experiences required for the attainment of the degree or certificate;

370 (3) A nonresident person rendering massage therapy up to 60 days during a 12 month
371 period for treatment of a temporary sojourner only, provided that such nonresident

372 massage therapist holds a license, registration, or certification from another state,
373 jurisdiction, or country if the requirements as determined by the board for licensure,
374 registration, or certification are substantially equal to the requirements contained in this
375 chapter or provided that such nonresident massage therapist is currently nationally
376 certified in therapeutic massage and bodywork;

377 (4) A person duly licensed, registered, or certified in another jurisdiction, state, territory,
378 or a foreign country when incidentally in this state to provide service as part of an
379 emergency response team working in conjunction with disaster relief officials or as part
380 of a charity event with which he or she comes into the state;

381 (5) A person who restricts his or her practice to the manipulation of the soft tissue of the
382 human body to hands, feet, or ears who does not have the client disrobe and does not hold
383 himself or herself out as a massage therapist;

384 (6) A person who uses touch, words, and directed movement to deepen awareness of
385 existing patterns of movement in the body as well as to suggest new possibilities of
386 movement while engaged within the scope of practice of a profession with established
387 standards and ethics, provided that his or her services are not designated or implied to be
388 massage or massage therapy;

389 (7) A person who uses touch and movement education to effect change in the structure
390 of the body while engaged in the practice of structural integration, provided that he or she
391 is a member of, or whose training would qualify for membership in, the International
392 Association of Structural Integrators and provided that his or her services are not
393 designated or implied to be massage or massage therapy;

394 (8) A person who uses touch to affect the energy systems, polarity, acupoints, or Qi
395 meridians, also known as channels of energy, of the human body while engaged within
396 the scope of practice of a profession with established standards and ethics, provided that
397 his or her services are not designated or implied to be massage or massage therapy; **or**

398 (9) A person who was engaged in massage therapy practice prior to July 1, 2005;
399 provided, however, that the prohibition of subsection (c) of Code Section 43-24A-15 shall
400 apply to such a person on and after July 1, 2007; **or**

401 (10) A person licensed under other chapters of this title providing cupping therapy or
402 taping techniques that are authorized within the scope of practice of such person.

403 (b) Nothing in this chapter shall prohibit a licensed massage therapist from practicing any
404 of the modalities described in paragraphs (5) through (8) of subsection (a) of this Code
405 section.

406 43-24A-20.

407 (a) The board shall establish continuing education requirements not to exceed 25 hours per
408 biennium in massage therapy, its complementary methods as defined by the board, or any
409 of the modalities described in paragraphs (5) through (8) of subsection (a) of Code Section
410 43-24A-19. The board shall by rule establish criteria for the approval of continuing
411 education programs or courses. The programs or courses approved by the board may
412 include correspondence courses that meet the criteria requirements for continuing
413 education programs or courses.

414 (b) Continuing education requirements or credits used for license renewal shall be
415 approved by the board.

416 43-24A-21.

417 As cumulative to any other remedy or criminal prosecution, the board may file a
418 proceeding in the name of the state seeking issuance of a restraining order, injunction, or
419 writ of mandamus against any person, entity, or board recognized massage therapy
420 educational program that who is or has been violating any of the provisions of this chapter
421 or the lawful rules or orders of the board.

422 43-24A-22.

423 (a) This chapter shall not be construed to prohibit a county or municipality from enacting
424 any regulation of persons not licensed pursuant to this chapter. Any place of business
425 where massage therapy for compensation is performed shall also be subject to any
426 regulation by local governing authorities which elect to enact regulations in accordance
427 with this chapter.

428 (b) No provision of any ordinance enacted by a municipality, county, municipality, or
429 other local jurisdiction that relates to the practice of massage therapy or requires licensure
430 an individual professional license by such county, municipality, or local jurisdiction of a
431 massage therapist may be enforced against a person who is issued a license by the board
432 under this chapter.

433 43-24A-23.

434 Notwithstanding any provision of law to the contrary, the act of a duly licensed massage
435 therapist in performing a massage shall be deemed to be the act of a health care
436 professional and shall not be subject to the collection of any form of state or local taxation
437 regulations or fees not also imposed on other professional licensed health care activities
438 professionals.

439 43-24A-24.

440 (a) Any person, entity, or board recognized massage therapy educational program that who
441 acts in violation of Code Section 43-24A-15, upon conviction thereof, shall be punished
442 as provided in this Code section.

443 (b) Each act of unlawful practice under this Code section shall constitute a distinct and
444 separate offense.

445 (c) Upon being convicted a first time under this Code section, such person, or entity, or
446 board recognized massage therapy educational program shall be guilty of and shall be
447 punished as for a misdemeanor for each offense which is punishable by a fine of not less
448 than \$500.00 nor more than \$5,000.00. Upon being convicted a second time under this
449 Code section, such person, or entity, or board recognized massage therapy educational
450 program shall be guilty of and shall be punished as for a misdemeanor of a high and
451 aggravated nature punishable by a fine of not less than \$5,000.00 nor more than
452 \$10,000.00, or imprisonment for not less than six months nor more than one year, at the
453 discretion of the court. Upon being convicted a third or subsequent time under this Code
454 section, such person, or entity, or board recognized massage therapy educational program
455 shall be guilty of a felony and shall be punished by a fine of not more than \$25,000.00 for
456 each offense, imprisonment for not less than one nor more than five years, or both, and
457 shall be precluded from owning, operating, or working for or with an entity that offers
458 massage therapy.

459 ARTICLE 2

460 43-24A-30.

461 (a) A county, municipality, or other local jurisdiction may by ordinance or resolution
462 license or regulate massage therapy businesses. Any ordinance or resolution adopted
463 pursuant to this subsection may include, but is not limited to, at least the following
464 requirements on such businesses:

465 (1) Current liability insurance coverage for bodily injury, property damage, and
466 professional liability for the massage therapy business;

467 (2) Compliance with state and local fire and safety requirements;

468 (3) Provision for extermination of vermin, insects, termites, and rodents in any property
469 or location used by the massage therapy business;

470 (4) Maintenance of equipment in a safe and sanitary condition;

471 (5) Adequate toilet and lavatory facilities with running water, toilet tissue, soap dispenser
472 with soap or other hand-cleansing materials, sanitary towels or other hand drying devices,
473 waste receptacles, and adequate lighting and ventilation sufficient to remove

474 objectionable odors on the premises of the business or entity or within reasonable
475 proximity to such business or entity when it is located in a space or facilities also used
476 by other businesses;
477 (6) Adequate and sanitary shower facilities if the massage therapy business maintains a
478 whirlpool bath, sauna, hot tub, spa, steam cabinet, or steam room, including soap and
479 sanitary cloth towels and adequate lighting and ventilation;
480 (7) Prequalification processes, state licensure checks, interviews, or other procedures
481 prior to approval of application for a business license for a person or entity proposing to
482 offer massage therapy services or for a massage therapy business;
483 (8) Requirement that a licensed massage therapist is present on the premises of a
484 massage therapy business at any time when massage therapy is being performed for a
485 client of the massage therapy business; and
486 (9) Evidence of license to practice massage therapy.
487 (b) A county, municipality, or other local jurisdiction may limit or prohibit a massage
488 therapy business from using labels or names including the words 'spa establishment,'
489 'massage parlor,' 'personal service,' or 'adult entertainment.'

490 43-24A-31.
491 (a) A county, municipality, or other local jurisdiction that licenses or regulates massage
492 therapy businesses may not adopt any ordinance or regulation that includes any of the
493 following:
494 (1) Conditions or requirements required as of July 1, 2019, for licensure as a massage
495 therapist under this chapter, including, but not limited to, criminal background checks,
496 education, and training; provided, however, that a county, municipality, or other local
497 jurisdiction may require a criminal background check of any employee, independent
498 contractor, or other person working on the premises of a massage therapy business who
499 is not a licensed massage therapist; provided, further, that a county, municipality, or other
500 local jurisdiction may require evidence of licensure pursuant to paragraph (9) of
501 subsection (a) of Code Section 43-24A-30;
502 (2) Limitations on the location of a massage therapy business relating to its proximity
503 to other massage therapy businesses that directly or indirectly prohibit massage therapy
504 businesses from locating in the jurisdiction;
505 (3) Prohibition of off-premises or mobile services by a licensed massage therapist;
506 (4) Limitations on the operation of the massage therapy business from engaging licensed
507 massage therapists as contractors of such business or lessees of the premises of the
508 massage therapy business for the performance of massage therapy; or

509 (5) Conditions or requirements that are in any manner inconsistent with the federal
510 Health Insurance Portability and Accountability Act of 1996.

511 (b) A county, municipality, or other local jurisdiction shall not impose any requirements
512 relating to massage therapy for the purpose of impeding the lawful practice of massage
513 therapy pursuant to this chapter.

514 43-24A-32.

515 Nothing in this article shall prohibit a county, municipality, or other local jurisdiction from:

516 (1) Licensing or regulating other businesses that are not massage therapy businesses;
517 (2) Enacting advertising restrictions on massage therapy businesses to protect the public;
518 provided, however, that this shall not include any restrictions on the content of
519 advertising beyond what is included in Code Section 43-24A-15;

520 (3) Inspecting massage therapy businesses; provided, however, that this shall not be
521 construed to authorize the review of client records protected by the federal Health
522 Insurance Portability and Accountability Act of 1996; or

523 (4) Prohibiting and prosecuting illicit, immoral, prurient, or illegal activities or sexual
524 activity in the operation or on the premises of a massage therapy business.

525 43-24A-33.

526 (a) The appropriate prosecuting attorney may cause appropriate proceedings to be
527 commenced in order to enforce the provisions of this article.

528 (b) The board, in addition to the remedies set forth in this chapter, may bring an action in
529 a court of competent jurisdiction to enjoin violations of this article. Such injunction may
530 be issued by such court notwithstanding the existence of an adequate remedy at law."

531 **SECTION 2.**

532 This Act shall become effective upon its approval by the Governor or upon its becoming law
533 without such approval.

534 **SECTION 3.**

535 All laws and parts of laws in conflict with this Act are repealed.